

Message

From: Hanley, Mary [Hanley.Mary@epa.gov]
Sent: 4/24/2019 9:16:38 PM
To: Dunn, Alexandra [dunn.alexandra@epa.gov]; Baptist, Erik [Baptist.Erik@epa.gov]; Beck, Nancy [Beck.Nancy@epa.gov]; Bertrand, Charlotte [Bertrand.Charlotte@epa.gov]
CC: Tyler, Tom [Tyler.Tom@epa.gov]
Subject: RE: ACTION - Senate Committee on Environment & Public Works: Follow up Questions for Witness, Mr. Ross - Question 57

Got it. Thanks.

From: Dunn, Alexandra
Sent: Wednesday, April 24, 2019 5:15 PM
To: Baptist, Erik <Baptist.Erik@epa.gov>; Hanley, Mary <Hanley.Mary@epa.gov>; Beck, Nancy <Beck.Nancy@epa.gov>; Bertrand, Charlotte <Bertrand.Charlotte@epa.gov>
Cc: Tyler, Tom <Tyler.Tom@epa.gov>
Subject: RE: ACTION - Senate Committee on Environment & Public Works: Follow up Questions for Witness, Mr. Ross - Question 57

I think the Wheeler QFR will work.

Alexandra Dapolito Dunn, Esq.
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Office of Chemical Safety and Pollution Prevention
U.S. Environmental Protection Agency
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From: Baptist, Erik
Sent: Wednesday, April 24, 2019 4:58 PM
To: Hanley, Mary <Hanley.Mary@epa.gov>; Dunn, Alexandra <dunn.alexandra@epa.gov>; Beck, Nancy <Beck.Nancy@epa.gov>; Bertrand, Charlotte <Bertrand.Charlotte@epa.gov>
Cc: Tyler, Tom <Tyler.Tom@epa.gov>
Subject: RE: ACTION - Senate Committee on Environment & Public Works: Follow up Questions for Witness, Mr. Ross - Question 57

Mary,

I am not sure how the two QFRs are substantively different.

Here's Wheeler's QFR:

If confirmed, will you commit to avoiding any actions that would preempt states' ability to enforce health advisory levels for PFAS enacted before April 22, 2016 that are more stringent than the EPA's standards? If you will not make this commitment, please explain why you believe that TSCA prevents states from enforcing more stringent requirements the state had established before April 22, 2016.

Here's Ross's QFR:

Will you commit to avoiding any actions that would preempt states' ability to enforce health advisory levels for PFAS enacted before April 22, 2016 that are more stringent than the EPA's standards? If you will not make this

commitment, please describe the specific instances in which you believe TSCA would prevent states from enforcing more stringent requirements the state had established before April 22, 2016.

Both were from Sen. Sanders, I believe.

Erik Baptist

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From: Hanley, Mary

Sent: Wednesday, April 24, 2019 3:58 PM

To: Baptist, Erik <Baptist.Erik@epa.gov>; Dunn, Alexandra <dunn.alexandra@epa.gov>; Beck, Nancy <Beck.Nancy@epa.gov>; Bertrand, Charlotte <Bertrand.Charlotte@epa.gov>

Cc: Tyler, Tom <Tyler.Tom@epa.gov>

Subject: RE: ACTION - Senate Committee on Environment & Public Works: Follow up Questions for Witness, Mr. Ross - Question 57

Hi Erik. Below is the Wheeler QFR and response that you may have remembered. OPPT did not use it the response because they did not think it was responsive to the current QFR.

152. Several states, including my home state of Vermont, have set health advisories for drinking water containing PFAS chemicals that are significantly more stringent than the EPA's lifetime health advisory level. The most recent update to the Toxic Substances Control Act (TSCA) contained a provision that protects states that had more stringent standards on the books before April 22, 2016 (Sec. 13 State-Federal Relationship, 15 USC § 2617(e)(1)(A)). If confirmed, will you commit to avoiding any actions that would preempt states' ability to enforce health advisory levels for PFAS enacted before April 22, 2016 that are more stringent than the EPA's standards? If you will not make this commitment, please explain why you believe that TSCA prevents states from enforcing more stringent requirements the state had established before April 22, 2016.

The preemption provisions of the Lautenberg Amendments to TSCA contain important directions that address when state actions will be preempted or not. EPA will follow all requirements of the statute with regard to preemption.

From: Baptist, Erik

Sent: Wednesday, April 24, 2019 9:53 AM

To: Hanley, Mary <Hanley.Mary@epa.gov>; Dunn, Alexandra <dunn.alexandra@epa.gov>; Beck, Nancy <Beck.Nancy@epa.gov>; Bertrand, Charlotte <Bertrand.Charlotte@epa.gov>

Cc: Tyler, Tom <Tyler.Tom@epa.gov>

Subject: RE: ACTION - Senate Committee on Environment & Public Works: Follow up Questions for Witness, Mr. Ross - Question 57

Mary,

I believe we had a similar QFR for Administrator Wheeler's confirmation. Can someone go back and see what we said in that response to ensure consistency?

Erik Baptist

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From: Hanley, Mary

Sent: Wednesday, April 24, 2019 9:47 AM

To: Dunn, Alexandra <dunn.alexandra@epa.gov>; Beck, Nancy <Beck.Nancy@epa.gov>; Bertrand, Charlotte <Bertrand.Charlotte@epa.gov>; Baptist, Erik <Baptist.Erik@epa.gov>

Cc: Tyler, Tom <Tyler.Tom@epa.gov>

Subject: FW: ACTION - Senate Committee on Environment & Public Works: Follow up Questions for Witness, Mr. Ross - Question 57

Hi. For review attached is Q57 on preemption which OGC has reviewed.